

Notice of Allowability

Application No.

10/091,921

Examiner

Tina M Lin

Applicant(s)

SINK ET AL.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 08 March 2004.
2. ☒ The allowed claim(s) is/are 1-35 and 39-43.
3. ☒ The drawings filed on 29 July 2002 are accepted by the Examiner, subject to corrections indicated below.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☒ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☒ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date 042004.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date 04/23/2002
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

This Office action is responsive to applicant's communication submitted 08 March 2004. Applicant's election without traverse of Group 1, claims 1-35 and 39-43 in Paper No. 022004 is acknowledged.

Drawings

The drawings filed on 29 July 2002 are acceptable subject to correction of the informalities indicated below by the Examiner. In order to avoid abandonment of this application, correction is required in reply to the Office action. The correction will not be held in abeyance.

In the figures filed 29 July 2002, it appears that Figure 5(b) is missing. Appropriate correction is required.

Examiner's Amendment

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

This application is in condition for allowance except for the presence of claims 36 to 38 non-elected without traverse. Accordingly, claims 36-38 have been cancelled.

Examiner's Statement Of Reasons For Allowance

The following is an examiner's statement of reasons for allowance: The prior art of record in this application fails to disclose or reasonably suggest a diagnostic device or method for using the diagnostic device for detecting the alignment of moveable mirrors in an optical switch. More specifically, the diagnostic device comprises of a two-dimensional photo imager

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receiving light from a movable reflector mirror array to create a two dimensional image of the reflector array depending on the current position of each of the mirrors, controlled by a controller, in the movable mirror array. By this configuration and method of imaging the mirror array through a photo imager on a screen through a series of dots, the series of dots allow for the technique of monitoring the position of the movable mirrors in the optical switch. The closest prior art of record is U.S. Patent 5,640,479 To Hegg et al. Hegg et al. discloses a micromirror projection device comprising a micromirrored array component with individual moving mirrors selectively tilted on the ON or OFF position. Depending on the position of the mirror, either ON or OFF, the light is then either reflected through the fiber optic bundle and projected through the projection lens onto a display screen or the light is blocked by a reflective surface. But Hegg et al. fails to disclose the image produced on the display screen to reflect the position of the movable mirror. Furthermore, Hegg et al. fails to disclose the light reflected from the movable mirrors to reflect at a different position depending on the current position of the movable mirror. Hegg et al. only discusses the passing and blocking of light beams reflected from the movable mirror array. Therefore, Claims 1-35 and 39-43 are allowed.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

The documents submitted by applicant in the Information Disclosure Statement have been considered and made of record. Note attached copy of form PTO-1449. The prior art

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documents submitted by Applicant fails to disclose or reasonably suggest the allowable subject matter discussed above.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. References B and C discuss alternative photoimaging systems, however they fail to disclose or reasonably suggest the allowable subject matter discusses above.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

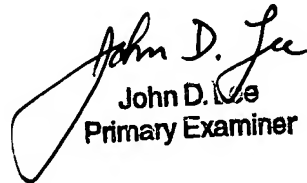
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tina M Lin whose telephone number is (571) 272-2352. The examiner can normally be reached on Monday-Friday 8:30-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rodney Bovernick can be reached on (571) 272-2344. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


TML


John D. Lee
Primary Examiner